May 20, 2021

BIR RULING NO. OT-184-21

Government Service Insurance System
Financial Center, Pasay City
Metro Manila 1308

Attention: *Rolando L. Macasaet*
President and General Manager

Gentlemen :

This refers to your letter dated February 16, 2021 requesting for a ruling on whether to remit to the Bureau of Internal Revenue (BIR), the documentary stamp tax (DST) collected on non-life insurance policies issued by the Government Service Insurance System (GSIS) to the agencies of the National Government (national agencies) in taxable year 2018.

Your letter mentioned that by virtue of BIR Ruling No. 554-2017 dated December 4, 2017, GSIS decided to refund to the national agencies the DST collected by GSIS on the non-life insurance policies GSIS issued to these national agencies. However, it is claimed that BIR Ruling No. 140-2019 dated January 29, 2019, issued to the Bureau of Treasury (BTr) stating that the parametric insurance it procured from GSIS is subject to DST under Section 184 of the National Internal Revenue Code of 1997, as amended (Tax Code), has impliedly revoked the earlier BIR Ruling No. 554-2017 issued to GSIS.

Thus, GSIS is contemplating to remit to the BIR the DST it collected on the insurance policies issued to the national agencies in 2018, instead of refunding the said DST to the said national agencies, and requests that no surcharge or interest be imposed, as GSIS relied in good faith on BIR Ruling No. 554-2017.

In reply, we quote the relevant portion of BIR Ruling No. 554-2017 which states that the certificates are exempt from DST, as follows:

> "In reply, please be informed that Section 173 of the Tax Code, as amended, provides that there shall be levied, collected, and paid upon documents, instruments and papers evidencing the act done or transaction had or the agreement or contract has been perfected, DST. On the other hand, Section 184 of the same Code provides that DST shall be based on the amount of premium charged. DST shall be due upon the issuance

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of the insurance policy and the premium charged on the estimated insurance coverage, as it is reflected on the face of the policy, and which shall be the amount on which the DST due shall be based.

However, Section 199 of the Tax Code, as amended, and as implemented by Revenue Regulations (RR) No. 13-04 dated December 23, 2004, provides that that certificates placed upon documents, instruments and papers for the national government, made at the instance and for the sole use of some other branch of the national government, are exempt from documentary stamp tax —

> 'SEC. 199. *Documents and Papers Not Subject to Stamp Tax.* — The provisions of Section 173 to the contrary notwithstanding, the following instruments, documents and papers shall be exempt from the documentary stamp tax:
>
> (a) Policies of insurance or annuities. . .
>
> (b) Certificates of oaths administered to any government official in his official capacity or of acknowledgment by any government official in the performance of his official duties, written appearance in any court by any government official, in his official capacity; certificates of the administration of oaths to any person as to the authenticity of any paper required to be filed in court by any person or party thereto, whether the proceedings be civil or criminal; papers and documents filed in courts by or for the national, provincial, city or municipal governments; affidavits of poor persons for the purpose of proving poverty; statements and other compulsory information required of persons or corporations by the rules and regulations of the national, provincial, city or municipal governments exclusively for statistical purposes and which are wholly for the use of the bureau or office in which they are filed, and not at the instance or for the use or benefit of the person filing them; certified copies and other certificates placed upon documents, instruments and papers for the national, provincial, city, or municipal governments, made at the instance and for the sole use of some other branch of the national, provincial, city or municipal governments; . . .'

In view of the foregoing, the certificates of insurance policy that will be issued by GSIS to the Bureau of Internal Revenue, being certificates for an agency under the Executive branch of the national government, made at its instance and for its sole use, and for the account of the Bureau of Internal Revenue are exempt from the DST." (Underscoring supplied)

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In short, the DST that BIR Ruling No. 554-2017 was referring to, as the one exempt pursuant to Sec. 199 (b) of the Tax Code, was the DST applicable for certificates or Section 188 of the same Tax Code which states:

> "SEC. 188. *Stamp Tax on Certificates*. — On each certificate of damages or otherwise, and on every certificate or document issued by any customs officer, marine surveyor, or other person acting as such, and on each certificate issued by a notary public, and on each certificate of any description required by law or by rules or regulations of a public office, or which is issued for the purpose of giving information, or establishing proof of a fact, and not otherwise specified herein, there shall be collected a documentary stamp tax of Fifteen pesos (P15.00)." [1]

BIR Ruling No. 554-2017, however, was silent on whether the insurance policy itself, and not just the Certificate of insurance policy that was issued, was subject to DST under Section 184 of the Tax Code.

This was finally clarified in BIR Ruling No. 140-2019 which stated that:

> "In reply, please be informed that Section 184 of the 1997 Tax Code, as amended, provides:
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> > 'SEC. 184. *Stamp Tax on Policies of Insurance upon Property*. — On all policies of insurance or other instruments by whatever name the same may be called, by which insurance shall be made or renewed upon property of any description, including rents or profits, against peril by sea or on inland waters, or by fire or lightning, there shall be collected a documentary stamp tax of Fifty centavos (P0.50) on each Four pesos (P4.00), or fractional part thereof, of the amount of premium charged: Provided, however, That no documentary stamp tax shall be collected on reinsurance contracts or on any instrument by which cession or acceptance of insurance risks under any reinsurance agreement is effected or recorded.'
>
> Based on the above-quoted provision, an insurance policy by which insurance is made or renewed upon property is subject to DST on the amount of the premium charged. Hence, the insurance policy to be issued by GSIS in favor of the BTr, in the absence of a law expressly exempting said transaction from DST, is subject to the DST imposed under the above provision.
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> xxx xxx xxx
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> It must be emphasized that the exemption from DST found in Section 199 (b) of the 1997 Tax Code, as amended, covers only DST on certified true copies and other certificates placed upon documents, instruments and papers for the national, provincial, city or municipal governments, made at the instance and for the sole use of other

branch of government, and does not include DST on insurance policy which is specifically covered by Section 184 of the same Code." (Underscoring supplied)

BIR Ruling No. 140-2019 did not revoke BIR Ruling No. 554-2017. They are complementary.

In summary, a regular insurance policy is subject to DST under Section 184 of the Tax Code which is based on the amount of premium charged. Once such insurance policy is issued, it is also subject to DST on certificates under Section 188 of the same Tax Code.

Applying the above in the instant case, an insurance policy procured by a national agency from GSIS which is a tax-exempt party by virtue of Section 39 of Republic Act No. 8291, [2] once issued, is exempt from the DST on certificates under Section 188 of the Tax Code, pursuant to Section 199 (b) of the Tax Code, but is liable for DST on the amount of premium charged under Section 184 of the Tax Code.

Based on the foregoing, GSIS, relying in good faith on BIR Ruling No. 554-2017 which was silent on the DST on Section 184 of the Tax Code, is immediately enjoined to remit to the BIR the DST it collected on non-life insurance policies it issued to the national agencies in taxable year 2018, without surcharge and interest.

This ruling is being issued on the basis of the foregoing facts as represented. However, if upon investigation, it will be disclosed that the facts are different, then this ruling shall be considered null and void.

(SGD.) CAESAR R. DULAY
Commissioner of Internal Revenue

Footnotes

1. Amended to thirty pesos (P30) by the Tax Reform for Acceleration and Inclusion Act or Republic Act No. 10963, effective January 1, 2018.
2. Government Service Insurance System Act of 1997.

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